Subject Name: Constitution Law
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The Extensive Nature of the Indian Constitution

The Indian Constitution stands out as the lengthiest constitutional document globally, encompassing a broad spectrum of subjects that could typically fall within the purview of ordinary legislation or administrative directives. This extensive nature is attributed to the adoption of the Government of India Act, 1935, as a foundational model and initial draft for the Constitution.

Consequently, substantial portions of this statute found their way into the Constitution, contributing to its comprehensive character.

Moreover, the complexity and diversity inherent in the Indian context prompted the inclusion of numerous special, temporary, transitional, and miscellaneous provisions tailored to specific regions or classes of people within the country.

These provisions were deemed necessary to address the multifaceted challenges and unique circumstances prevailing in various parts of the nation.

Written Constitution

Written constitutions, such as the U.S. Constitution, are codified documents explicitly outlining the fundamental principles and structures of government.

Unwritten constitutions, exemplified by the British system, are based on conventions and historical precedents rather than a single written document.
The Indian Constitution is classified as written, although it incorporates elements of convention that align with its written provisions. Originally comprised of 395 Articles and 8 Schedules, it presently consists of 448 Article organised into 22 parts and 12 Schedules.

Rigid and Flexible

Rigid constitutions have stringent procedures for amendment, making it arduous to modify their fundamental provisions. Federal constitutions typically fall under this category due to their complex amendment processes.

Flexible constitutions, on the other hand, feature easier amendment procedures, allowing for more adaptable governance structures.
The Indian Constitution demonstrates characteristics of both rigidity and flexibility. While certain provisions can be amended through ordinary legislation by a simple majority in Parliament, others require a special majority. This amalgamation of amendment procedures renders the Indian Constitution a unique blend of rigidity and flexibility, accommodating the need for both stability and adaptability in governance.

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Parliamentary System

India stands as a Republic, where the ultimate authority rests with the citizens, exercised through elected representatives. At the helm is the President, wielding executive powers and serving as the Supreme Commander of the armed forces. However, unlike the U.S. President, the Indian President's role is largely ceremonial, acting upon the advice of the Council of Ministers, the true political executive accountable to the popular House of Parliament, the Lok Sabha.

Embracing the Westminster model, India's Constitution leans towards a parliamentary system of government, emphasising ministerial responsibility to the elected House, in contrast to the U.S. Presidential Government with its separation of powers and a fixed-term, nearly irremovable

President. In the U.S. system, Ministers are chosen by the President from the general populace and remain distinct from the legislature. Conversely, in the Parliamentary system, Ministers are drawn from Parliament, maintaining their legislative roles and being accountable to its representatives.

While India's governance structure mirrors elements of the British Parliamentary system, significant departures exist. Unlike the UK's predominantly unitary Constitution, India's framework is largely federal. The UK's monarchy contrasts with India's republican status, featuring an elected President. Furthermore, India boasts a written Constitution, subjecting legislative actions to judicial review, and enshrining justiciable fundamental rights enforceable against both the executive and the legislature—a feature absent in the UK.

The choice of the parliamentary system by India's founding fathers was rooted in its adaptability to the nation's diverse and pluralistic society, fostering unity amidst myriad interests. Dr. Ambedkar, in the Constituent Assembly, lauded the system for prioritising responsibility over stability. However, critics contend that it engenders political instability and dysfunction, evident in phenomena like Hung Parliaments or the exigencies of coalition politics.

In essence, India's governance model represents a blend of tradition and innovation, adapting familiar parliamentary norms to suit the nation's unique socio-political landscape, while also introducing novel elements to uphold constitutional principles and accommodate diverse societal needs.



Harmonizing Sovereignty and Judicial Review

In India, the Constitution strikes a delicate balance between the British notion of parliamentary sovereignty and the American principle of judicial supremacy. Central to this balance is the primacy of the rule of law, wherein judicial review of administrative actions stands as a cornerstone. Courts

possess the authority not only to assess the constitutionality of laws but also to scrutinise the procedural aspects of administrative actions, as established in the landmark case of State of Bihar v Subhash Singh (AIR 1997 SC 1390).

However, the existence of a written Constitution delineating the powers and functions of each organ precludes any single entity, including Parliament, from claiming absolute sovereignty. Instead, both Parliament and the Supreme Court hold supremacy within their respective domains. While the Supreme Court retains the prerogative to invalidate laws passed by Parliament deemed unconstitutional, Parliament retains the authority, subject to certain limitations, to amend significant portions of the Constitution.

This framework ensures a delicate equilibrium, wherein the principles of parliamentary sovereignty and judicial review coexist harmoniously, reinforcing the rule of law and upholding the constitutional integrity of India's governance structure.

Universal Adult Suffrage

Dr. Ambedkar, in a seminal address to the Constituent Assembly, encapsulated the essence of parliamentary democracy as "one man, one vote." Grounded in a profound belief in democratic principles, India's founding fathers made a bold and visionary decision to embrace universal adult suffrage, granting every adult Indian citizen, regardless of social or educational background, equal voting rights.

This commitment to universal adult suffrage was particularly remarkable given the prevalent challenges of widespread poverty and illiteracy among the Indian populace at the time. Despite these obstacles, the founding fathers recognized the fundamental importance of political inclusion and representation for all citizens, viewing it as essential for fostering a truly democratic society.

By embracing universal adult suffrage, India's democratic foundation was strengthened, laying the groundwork for a governance system that values the voice and participation of every individual, regardless of their socioeconomic status or educational attainment. This bold step reaffirmed India's commitment to democratic ideals and highlighted the belief that democracy thrives when every citizen has the opportunity to exercise their right to vote.

Secular

India proudly bears the mantle of a secular state, a designation earned through its steadfast commitment to nondiscrimination and equality across all religions. Unlike a theocratic state, India does not endorse or prioritise any particular religion. Instead, all religions are regarded with equal respect and esteem by the State, embodying a policy of impartiality and inclusivity.

Central to India's secular identity is the principle of nondiscrimination, whereby individuals are treated equally under the law regardless of their religious affiliation. This ethos is enshrined in the nation's governance structure, which prohibits any form of religious favouritism or bias.

By upholding the ideals of secularism, India fosters a society where individuals of all faiths coexist harmoniously, free from religious persecution or coercion. This commitment to pluralism and religious freedom reinforces India's democratic values and ensures that all citizens are afforded the opportunity to practise their faith freely, without fear of discrimination or prejudice.

Safeguarding Individual Rights

Part III of the Indian Constitution enshrines the Fundamental Rights, which serve as inviolable protections for individuals against encroachments by the State. Any law or executive action that infringes upon the freedoms of an individual citizen can be contested in the Supreme Court or High Court, demonstrating the robust mechanism for the enforcement of these rights outlined in the Constitution.

In contrast to the U.S. Constitution, where fundamental rights are expressed in absolute terms, the Indian Constitution acknowledges the inherent limitations of individual rights. Recognizing that the rights of each individual must be balanced against the similar rights of others, the Indian Constitution incorporates legitimate restrictions within the relevant provisions themselves.

This approach reflects the wisdom of India's founding fathers, who opted to delineate the permissible restrictions on fundamental rights within the constitutional framework. By doing so, they ensured that individual freedoms are upheld while also safeguarding the collective welfare and rights of society as a whole. This approach to balancing individual liberties with societal interests indicates the democratic ethos and commitment to justice embedded within the Indian Constitution.

Directive Principles of State Policy

Inspired by the Irish model, the Directive Principles of State Policy stand as a distinctive feature of the Indian Constitution. Encompassing the majority of socio-economic rights of the people, these principles serve as a moral compass for governance, reflecting the aspirations and ideals envisioned by the founding fathers.

While not legally enforceable in courts of law, the Directive Principles hold immense significance in guiding the conduct of the State and its organs. They represent the collective vision of a just and equitable society, towards which the government and all its branches are expected to strive.

In recent times, the relevance and importance of the Directive Principles have grown significantly. They have become not only a guiding framework for legislatures but also a source of reference for judicial interpretation. Courts increasingly consider these principles in their rulings, recognizing their pivotal role in shaping policies and laws that promote the welfare and advancement of society as a whole.

Thus, the Directive Principles of State Policy stand as a beacon of hope and aspiration, driving the nation towards a future characterised by justice, equality, and social progress.

Fundamental Duties: Fostering Citizenship Responsibilities

The 42nd Amendment to the Constitution introduced a significant addition in the form of a new Part under the title "Fundamental Duties." This part delineates a set of ten duties incumbent upon all citizens of India.

Recognizing the intrinsic link between rights and duties, the inclusion of fundamental duties underscores the importance of citizens' obligations towards the state. Without a corresponding sense of responsibility, rights lose their significance, and the fabric of citizenship becomes weakened.

Despite their significance, it is unfortunate that the code of fundamental duties has not received the attention and importance it deserves. While citizens enjoy various rights, it is equally imperative for them to uphold their duties towards the nation and fellow citizens.

Therefore, there is a pressing need to emphasise the importance of fundamental duties and integrate them into the fabric of citizenship education and public discourse. By fostering a culture of responsible citizenship, we can strengthen the foundations of democracy and promote the collective well-being of society.

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Independent and Integrated Judiciary

The Constitution of India lays the foundation for an independent judiciary vested with the powers of judicial review. Within this framework, the High Courts and the Supreme Court form a unified judicial structure, wielding jurisdiction over all laws, be they Union, State, Civil, Criminal, or Constitutional in nature.

Unlike the United States, where distinct federal and State court systems operate, India's judiciary operates as a single hierarchy of courts. This integrated approach ensures uniformity and consistency in legal adjudication across the nation.

Beyond its role in settling disputes, the judiciary serves as a guardian of individual rights and freedoms. Moreover, it assumes the crucial responsibility of interpreting the Constitution and scrutinising legislation to ascertain its compatibility with constitutional provisions.

In essence, the judiciary of India stands as a bulwark of the rule of law, ensuring that justice is dispensed impartially and in accordance with the principles enshrined in the Constitution. Its overarching mandate encompasses not only the resolution of legal disputes but also the preservation of constitutional values and the protection of citizens' rights and liberties.

The Melting Pot of Constitutional Influences

The framers of the Indian Constitution embarked on a comprehensive study of democratic systems worldwide, drawing upon the experiences and principles enshrined in the constitutions of various nations. This eclectic approach resulted in a constitution that uniquely tailored to suit Indian circumstances and aspirations, borrowing extensively from diverse constitutional models.

The Indian Constitution seamlessly integrates elements from multiple democratic countries, including the United Kingdom, Canada, Australia, Ireland, the United States, and Switzerland. Notably, it amalgamates the Theory of Fundamental Law from the United States' written constitution with the philosophy of Parliamentary Sovereignty, characteristic of the United Kingdom's unwritten constitution, a synthesis that stands as a hallmark of Indian constitutionalism.

From the United Kingdom, India adopted the parliamentary form of government, featuring a bicameral legislature (comprising the Lok Sabha and Rajya Sabha), a President as the constitutional head of state, and the institution of the Cabinet and Prime Minister. The concept of the "Rule of Law" also finds its roots in British legal tradition.

Canada's influence is evident in India's federal structure, with a strong central authority and residual powers vested in the Centre. The concurrent list, allowing both the Centre and States to legislate on certain subjects, mirrors Australia's constitutional framework.

Ireland's Constitution provided the inspiration for India's Directive Principles of State Policy, while elements such as the use of an Electoral College for the President's election and the nomination of experts to the Rajya Sabha were also borrowed.

From the United States, India adopted the delineation of powers and position of the President, as well as the framework for the Supreme Court's organisation and independence, including the concept of judicial review. Advisory opinion powers were influenced by Canada.

Fundamental rights, a cornerstone of Indian democracy, were borrowed from the United States, while the concept of fundamental duties drew inspiration from Russia (USSR).

Australia's influence is evident in matters of trade and commerce, while Italy's system contributed to the formation of alternate government procedures.

Procedures for amending the constitution, single citizenship, and the concept of "procedure established by law" were influenced by the United States, Canada, and Japan, respectively.

Emergency provisions were influenced by the German Reich and the Government of India Act, 1935.

Overall, the Indian Constitution represents a harmonious synthesis of constitutional principles from around the world, tailored to the unique socio-political landscape and aspirations of the Indian populace.

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